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MONTANA LEGISLATIVE HISTORY

Chapter 273 1981

Bill H _____ S 368 Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Local Government		
Hearing Date(s)	Mar 12	✓ C	Hearing Date(s)	Feb 14	✓ C
	Mar 14	✓ C			C
		C			C
		C		Feb 14	✓ C
Date Out	Mar 14	✓ C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 368

INTRODUCED BY ELLIOTT

IN THE SENATE

February 5, 1981	Introduced and referred to Committee on Local Government.
February 16, 1981	Committee recommend bill do pass. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 49; Noes, 1. Transmitted to House.

IN THE HOUSE

February 21, 1981	Introduced and referred to Committee on Local Covernment.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 99; Noes, 0.

IN THE SENATE

March 25, 1981	Returned from House. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 368

INTRODUCED BY Elliott

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTIFICATION BY THE COUNTY TREASURER THAT THERE ARE NO DELINQUENT TAXES OUTSTANDING ON PROPERTY PROPOSED TO BE SUBDIVIDED; AMENDING SECTION 76-3-611, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-611, MCA, is amended to read:

"76-3-611. Review of final plat. (1) The governing body shall examine every final subdivision plat and shall approve it when and only when:

(a) it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this chapter and regulations adopted pursuant thereto; and

(b) the county treasurer has certified that no real property taxes assessed and levied on the land to be subdivided are delinquent.

(2) (a) The governing body may require that final subdivision plats and certificates of survey be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the county clerk and recorder. When the survey data shown on the plat or certificate of survey meets the conditions set forth by or pursuant to this chapter, the examining land surveyor shall so certify in a printed or stamped certificate on the plat or certificate of survey. Such certificate shall be signed by him.

(b) No land surveyor shall act as an examining land surveyor in regard to a plat or certificate of survey in which he has a financial or personal interest."

-End-

INTRODUCED BILL

SB 368

setting up the plan. They think voter approval is not a good idea in this case.

Senator Van Valkenburg wanted to call the committee's attention to a letter they received from a member of the county attorney's staff in Missoula. (See attached Exhibit I.)

Senator Turnage was allowed to make the closing remarks. He said it was a valid point the opponent made in saying the Environmental Information Center usually was for voter approval except in this instance. Part 6 of Title 76 covers the master plan. He asked that anyone who has doubts that people should have input in the master plan should read this section. Land-use decisions control everything you do and you don't have any say in it. An appointed government decides that. The county commissioners cannot change the plan after it is adopted. A planning board prepares the master plan, these people are not elected. If you believe your lives should be controlled by free and open elections, vote for the bill.

There were no questions from the committee.

CONSIDERATION OF SENATE BILL NO. 368:

AN ACT REQUIRING CERTIFICATION BY THE COUNTY TREASURER THAT THERE ARE NO DELINQUENT TAXES OUTSTANDING ON PROPERTY PROPOSED TO BE SUB-DIVIDED.

Senator Elliott, District No. 8 in Columbia Falls, said he was requested to present this bill on behalf of county treasurers of Montana. It pertains to payment of real estate taxes. The problem occurs when a tract of land of which the taxes have not been paid, is platted into parts for subdivisions. It is the responsibility of the county treasurer to reallocate the taxes against the loss created. This creates liens against each new property owner. This bill requires the treasurer to certify that there are no delinquent taxes outstanding on property to be subdivided.

C. L. Buck O'Connell of the Montana County Treasurers Association spoke in favor of the bill. (See attached Exhibit J.)

Mike Stephen of the Montana Association of Counties supports this bill. Any effort to clean up delinquent taxes is a step in the right direction. The delinquency rates in some counties are running quite high. This assists treasurers in looking at and collecting these taxes in a timely manner.

Dan Mizner of the League of Cities and Towns supports this bill.

Ruth Sjelvik, representing herself, is concerned with the inequities happening with rollback taxes. This corrects that.

Senator Elliott made brief closing remarks.

Senator McCallum then called for questions from the committee.

Senator Hammond asked how this will effect rollback taxes.

Senator Elliott said this bill does not prevent anyone from paying under protest. He can't see where there would be much problem with rollback taxes.

Senator McCallum said if you break it up into lots, you have to pay rollback taxes.

Senator Elliott said the Flathead County assessor has never attempted it.

Mr. O'Connell said they didn't have rollback taxes in Cascade County other than those with a 34% reduction because of this. They didn't have rollback of subdivisions at all.

CONSIDERATION OF SENATE BILL NO. 379:

AN ACT TO DECREASE THE NUMBER OF DAYS OF NOTICE REQUIRED FOR HEARINGS ON MUNICIPAL ZONING LAWS AND MUNICIPAL INTERIM ZONING ORDINANCES.

Senator Thomas, sponsor of the bill, said the basic idea of this bill is to shorten the amount of time required in giving notice for zoning hearings. This way they can act on rezoning situations quicker. This was a request from the city of Great Falls. It met with approval from the city planning board and various environmental groups. He called the city of Great Falls twice to come and testify on this bill but no one is here today.

Dan Mizner of the League of Cities and Towns said the problem was with zoning changes for parking garages within the city. Everyone is notified through the newspapers. This just shortens the amount of time it takes to get this done. There is no universal concern over this bill but it was requested from the city of Great Falls to put this bill in.

Senator McCallum then called for opponents of the bill.

Ed Sheehy, Jr., representing the Montana Manufactured Housing Association, said the notice they are speaking about does not apply to just rezoning but zoning ordinances. The current notice time is often not enough.

Sena or McCallum then called for questions from the committee.

Sena or Conover asked why 7 was reduced to 3 on page 2.

Sena or Thomas said with a 7-day notice, people forget about t hear ng. This is just 3 days before the hearing date.

Sena or Hammond asked if this was in the city limits.

Mr. Mizner said there is a jurisdictional area if they adopt i The city has to adopt it within the zoning area.

Sena or Hammond said people have been saying the notice is not enou h as it is.

Sena or O'Hara said Senator Bob Brown objected to this.

Sena or Thomas apologized to the committee that the city of Grea Falls was not here to explain the situation to the commit

DISPOSITION OF SENATE BILL NO. 368: Senator Van Valkenburg mov this bill DO PASS. The motion passed unanimously.

DISPOSITION OF SENATE BILL NO. 399: Senator Hammond moved this bill DO PASS.

Senator Van Valkenburg said he would like to amend the bill but is not prepared right now. He said this was a classic example of swinging the pendulum as far to one side as it was at the other. This didn't get on the books to begin with without some good reason. He would like to develop some amendments that wil treat the concerns he has.

Senator O'Hara asked if Senator Van Valkenburg would be willing to present those amendments on the floor so everyone, including Senators Turnage, Manley and Elliott, could address them. This bill was not thought about lightly before they put it in.

Senator McCallum said he would hold the bill if Senator Van Valkenburg felt strongly about it.

Senator Van Valkenburg asked the committee if it would make any difference to them. There is no sense in making amendments if the committee is not interested in them.

Senator Hammond said he had made up his mind before he heard any of this because he has been exposed to this. He is in favor of passing the bill to the Senate floor.

Senator Ochsner said his mind was made up before, also. He will consider hearing the amendments on the floor.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/14

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas			✓
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

DATE FEBRUARY 14, 1981

COMMITTEE ON LOCAL GOVERNMENT BILL NO. SB368

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppos
C. Buck F. Cornell	Montana Treasurers Assoc.	✓	
Peter O'Connell		✓	
Ruth Sjolseth	self	✓	
Mike Cooper	MT Assoc. of Co.	✓	

(Please leave prepared statement with Secretary)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/14/81 Senate Bill No. 368 Time 12:35

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	Absent	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

Senator M. McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved SB 368 DO PASS.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 14 19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 368

Respectfully report as follows: That SENATE Bill No. 368

DO PASS

GEORGE MCCALLUM, Chairman.

STATE PUB. CO.
Helena, Mont.

something like that? Isn't that a state paid fee?

MR. MITCHELL said no. We make money available to the counties. The budget now runs from $5,000 minimum to a $100,000 in Yellowstone County. With that money the county runs their own program. They either pick up the vehicles themselves or pay a contractor anywhere from $10 to $50 to pick up the vehicle. The average cost around the state is about $40 per car.

REP. KITSELMAN asked what prevents a county from having a daily auction.

MR. MITCHELL said nothing.

CHAIRMAN BERTELSEN closed the hearing on SENATE BILL 353.

SENATE BILL 368 - sponsored by Senator Roger Elliott

SENATOR ELLIOTT said this bill was requested by the Association of County Treasurers. This bill deals with certain aspects of subdivisions. What it tries to do is to have the treasurer certify or sign off before a subdivision is platted that the real estate taxes have been paid off on a piece of land. The purpose of this is to simplify the recordkeeping in the treasurer's office. Typically what you have is a 40 acre tract that is going to be platted down into 120 lots. You have a certain amount of park land taken out of that 40 acre tract and a certain amount designated for streets, curbs and sidewalks that are not a part of the taxable base of that 40 acre tract. There is a considerable amount of paperwork which must be done to find what the delinquent taxes on the 40 acre tract was in relation to the taxable value after the subdivision takes place. I'll let the county treasurers explain their position.

PROPONENTS FOR SENATE BILL 368

GLORIA PALADICHUK, treasurer from Richland County, said she represents the County Treasurer's Association. There are three reasons why we feel this bill should be passed. (1) We feel that if a landowner wants to subdivide that the taxes should be current. (2) We feel that we should protect a new buyer. It is hard to check delinquent taxes once the classification has changed. (3) Before subdivision, delinquent records are kept by section, township and range. Once they are subdivided, it is by lots. A new buyer could possibly be required to pay any delinquent taxes, so we urge your support of this bill.

JOE ROBERTS said he represents the County Treasurer's Association. I wish to indicate that we are in favor of the bill and we asked Senator Elliott to sponsor it. I would also like to indicate that our Association President Roberta Wolf is here, so if there are any questions, she'd be glad to answer them.

CHAIRMAN BERTELSEN asked if there were any opponents. Since there were none, he asked Senator Elliott if he'd like to close.

SENATOR ELLIOTT said he had one other aspect to mention. He has talked with several subdividers regarding their thoughts and they see nothing wrong with the bill. They all feel delinquent taxes should be paid on these properties before they go into subdivision. I'm surprised that the Treasurer's Association would have to ask for this type of legislation. I encourage your DO PASS recommendation.

QUESTIONS FROM COMMITTEE MEMBERS:

REP. DUSSAULT: Has this really been a problem? Have there been taxes which have not been current?

GLORIA PALADICHUK said this has been a problem. It really creates a big problem when it happens, because suddenly you are no longer under a section, township and range. When it does happen, there is a problem of reclassification. Even with a title check, there is a possibility that there are delinquent taxes. It creates a problem for us because we, by law, are supposed to get the delinquent tax tied to the current tax bill.

REP. AZZARA: When title passes from the subdivider to the purchaser of the land, the assessor has to pick that information up and it has to go into the records for the purpose of levying future taxes. At that point, isn't a title search conducted which would turn up delinquent taxes?

ANSWER: We could miss it. The thing is that we have the responsibility to collect the taxes. If the title company misses it, then they are going to have to pay it when they give the title insurance. We do have the additional responsibility of letting a new buyer know there are delinquent taxes in time to get the descriptions together and get that tax bill out to the person.

REP. HOLLIDAY said that in the testimony she presented the other day on a certain bill which referred to 35,000 acres that had been purchased for subdividing, the taxes are delinquent. Before something is done, the taxes will be cleaned up under this bill.

REP. DUSSAULT asked if she bought a piece of property that was subdivided and the taxes were delinquent on it, would she as the buyer be responsible for the delinquent taxes?

ROBERTA WOLF said you are responsible for the whole amount.

REP. DUSSAULT asked if she would still be responsible if there has been a title clearance by the title company?

ROBERTA WOLF said yes, but there are a lot of people who don't get title insurance.

CHAIRMAN BERTELSEN said as there were no further questions, the hearing on SENATE BILL 368 is closed.

The meeting adjourned at 3 p.m.

Verner L. Bertelsen, CHAIRMAN

hbm

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL SENATE BILL 368 Date March 12, 1981

SPONSOR SENATOR ROGER ELLIOTT 2:00 p.m. - Room 103

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPP
Glecia Paladichuk	Richland Co Sidney	Co Treasurers	X	
Joe Roberts	Helena	Co Treasurers	X	
Roberta Wells	Kalispell	"	X	
Rose Leavitt	Helena	LWV of Mt		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Clara Paladichuk BILL No. SB 368

ADDRESS Box 1106, Sidney, MT. DATE March 13 1981

WHOM DO YOU REPRESENT Co Treasurers Assoc.

SUPPORT ~~~ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Oral Testimony:

I support SB 368. The Co. Treasurers Assoc. is of the opinion this bill is needed to protect our taxpayers. We believe when a subdivision is approved, the taxes should be paid current, & not passed on to a new buyer.

Before subdividing, delinquent taxes are checked by Section, Township & Range & after subdividing - they are by lots, thus, making it difficult for a new owner making sure Taxes are paid before buying.

FORM CS-34
1-81

vote against the amendment. Motion failed and the amendment did not pass for Senate Bill 328.

REP. MCBRIDE asked if there had ever been occasions when someone had to be out of town and the council refused to give permission, so by having to be gone more than 10 days, he essentially is in violation. Has anyone lost an office in such a case?

CHAIRMAN BERTELSEN replied that in a great number of cases the law is simply ignored. I would imagine that a large number of city council members would pay no attention to it. Perhaps where no problem arises and no one contests it, there is no question. But there would be a question if they couldn't get permission or they did it without consent. It is in the law and could be used.

REP. KITSELMAN said Jan Eschler, a Billings JP, took a trip to Australia last year and a big issue was made of it because she was gone three weeks, without written permission, and theoretically that vacated the office. There was considerable flack raised. She is still in office but that gray area needs to be addressed. With today's trend of 3 weeks for vacation rather than two weeks, this needs to be addressed.

CHAIRMAN BERTELSEN asked if the group was ready for the question.

QUESTION ON SENATE BILL 328 for DO CONCUR. All in favor say aye. Of the 12 committee members present, 10 voted aye and 2 voted no. Those voting no were Reps. Gould and Kitselman. Motion carried and SENATE BILL 328 received a DO CONCUR recommendation.

SENATE BILL 368

CHAIRMAN BERTELSEN said this is the bill requiring certification by the county treasurer that there are no delinquent taxes outstanding on property proposed to be subdivided.

REP. MATSO moved that SENATE BILL 368 BE CONCURRED IN.

QUESTION: The chairman said all in favor of SB 368 say aye. All voted aye and the motion carried. SENATE BILL 368 received a BE CONCURRED IN recommendation.

SENATE BILL 256

CHAIRMAN BERTELSEN said this is the bill which will give Fort Peck the opportunity to deal with the federal government as a city or incorporated town.